this bill would make that authority applicable to the exchange or transfer of a license.

Third, it would authorize written protests against the exchange of a license where no public notice of intent to sell alcoholic beverages is required. The written protests would be filed within 30 days of the application for the exchange of a license and would be subject to the same hearing provisions as protests against applications for new licenses.

Fourth, the bill would add a condition to existing law which requires ABC to deny an application for a license if either the applicant or premises do not qualify. Applications for the exchange of a license would be included within those provisions. This bill was rejected by the Assembly Governmental Organization Committee on April 29; however, the Committee granted the bill reconsideration on that same day.

SB 21 (Marks), as amended April 24, would impose on and after July 15, 1991, a surtax at specified rates on beer, wine, and distilled spirits, and an equivalent compensating floor stock tax on beer, wine, and distilled spirits in the possession of licensed persons on July 15, 1991. This bill is pending on the Senate floor.

BANKING DEPARTMENT

Superintendent: James E. Gilleran
(415) 557-3232
Toll-Free Complaint Number:
1-800-622-0620

Pursuant to Financial Code section 200 *et seq.*, the State Banking Department (SBD) administers all laws applicable to corporations engaging in the commercial banking or trust business, including the establishment of state banks and trust companies; the establishment, operation, relocation, and discontinuance of various types of offices of these entities; and the establishment, operation, relocation, and discontinuance of various types of offices of foreign banks. The Department is authorized to adopt regulations, which are codified in Chapter 1, Title 10 of the California Code of Regulations (CCR).

The superintendent, the chief officer of the Department, is appointed by and holds office at the pleasure of the Governor. The superintendent approves applications for authority to organize and establish a corporation to engage in the commercial banking or trust business. In acting upon the application, the superintendent must consider:

(1) the character, reputation, and financial standing of the organizers or incorporators and their motives in seeking to organize the proposed bank or trust company;

(2) the need for banking or trust facilities in the proposed community;

(3) the ability of the community to support the proposed bank or trust company, considering the competition offered by existing banks or trust companies; the previous banking history of the community; opportunities for profitable use of bank funds as indicated by the average demand for credit; the number of potential depositors; the volume of bank transactions; and the stability, diversity, and size of the businesses and industries of the community. For trust companies, the opportunities for profitable employment of fiduciary services are also considered;

(4) the character, financial responsibility, banking or trust experience, and business qualifications of the proposed officers; and

(5) the character, financial responsibility, business experience and standing of the proposed stockholders and directors.

The superintendent may not approve any application unless he/she determines that the public convenience and advantage will be promoted by the establishment of the proposed bank or trust company; conditions in the locality of the proposed bank or trust company afford reasonable promise of successful operation; the bank is being formed for legitimate purposes; the proposed name does not so closely resemble as to cause confusion the name of any other bank or trust company transacting or which has previously transacted business in the state; and the applicant has complied with all applicable laws.

If the superintendent finds that the proposed bank or trust company has fulfilled all conditions precedent to commencing business, a certificate of authorization to transact business as a bank or trust company will be issued.

The superintendent must also approve all changes in the location of a head office, the establishment or relocation of branch offices and the establishment or relocation of other places of business. A foreign corporation must obtain a license from the superintendent to engage in the banking or trust business in this state. No one may receive money for transmission to foreign countries or issue travelers checks unless licensed. The superintendent also regulates the safe-deposit business.

The superintendent examines the condition of all licensees. However, as the result of the increasing number of banks and trust companies within the state and the reduced number of examiners following passage of Proposition 13, the superintendent now conducts examinations only when necessary, but at least once every two years. The Department is coordinating its examinations with the FDIC so that every other year each agency examines certain licensees. New and problem banks and trust companies are examined each year by both agencies.

The superintendent licenses Business and Industrial Development Corporations which provide financial and management assistance to business firms in California.

Acting as Administrator of Local Agency Security, the superintendent oversees all deposits of money belonging to a local governmental agency in any state or national bank or savings and loan association. All such deposits must be secured by the depository.

MAJOR PROJECTS:

Amendments to SBD's Conflict of Interest Code. On May 10, SBD published notice of its intent to amend its conflict of interest (COI) code, which is set forth at Article 3, Subchapter 5, Chapter 1, Title 10 of the CCR. The proposed amendment would repeal the provisions of the Department's existing COI code, and adopt provisions incorporating by reference the terms of the model code of the Fair Political Practices Commission, codified at section 18730, Title 2 of the CCR. SBD also proposes to adopt an Appendix which identifies SBD officers, employees, and consultants who will be required to disclose specified investments, income, interests in real property, and business positions, and who will be required to disqualify themselves from making or participating in the making of governmental decisions affecting those interests.

Among the significant differences between the Department's existing COI provisions and those contained in the model code are the following:

-The model code requires initial and assuming office statements of economic interest to disclose income received during the twelve months prior to the effective date of the COI code or the date of assuming office, as applicable; SBD's existing COI code does not contain these requirements.

-The model code provides that persons who resign within thirty days of their initial appointment will not be deemed to have assumed or left an office if they did not make or participate in the making of any decision, use their position to influence any decision, or become entitled to receive any payment as a result of their appointment during their time in office. SBD's existing COI code does not contain an equivalent provision.

-If business positions are required to be disclosed, the model code requires a designated employee to report the name and address of each business entity in which the designated employee is a director, officer, partner, trustee, employee, or in which he/she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity. SBD's existing COI code does not provide for the disclosure of business positions.

-The model code requires disqualification of a state administrative official from making, participating in the making, or using his/her official position to influence any governmental decision directly relating to any contract if the designated employee knows or has reason to know that any party to the contract is a person with whom the employee or any member of his/her immediately family has, within the prior year, engaged in a business transaction relating to an investment or interest in real property, or the rendering of goods or services valued at $1,000 or more, on terms not available to members of the general public. SBD's existing COI code does not include an equivalent provision.

-The model code makes reference to the possible administrative, criminal, and civil sanctions provided by statute for violations of the COI code; SBD's existing COI code does not include an equivalent provision.

The public comment period concerning these proposals was scheduled to end on July 1; no public hearing was scheduled at this writing.

Construction Loan Survey. In April, SBD completed a survey of real estate construction loans at banks whose construction loan portfolios exceeded 25% of total loans. The group surveyed consisted of 56 banks, or 20.7% of the state-chartered banks in California; 53 of the banks responded to the survey. The purpose of the survey was to develop information concerning the extent of oversight and monitoring by the boards of directors of the banks, and to assess the level of portfolio risk in those banks with a higher than average level of concentration in construction loans.

The survey revealed that total construction loans at these banks consist of $11.6 billion, representing over 10% of the assets held by these banks. Over 50% of the total construction loans were in residential-related activities; income property loans accounted for 32% of total construction loans; and 17% were land development loans. Original survey responses indicated that only 40% of the banks had loan policy sublimits and diversification standards for construction loans; since the survey, SBD reports that over 90% of the banks have established such sublimits and standards.

The survey also contained the following findings:

-Seventeen banks surveyed have high levels of concentration in a single type of construction lending.

-Land development loans represent an area which must be followed closely.

-Approximately 70% of the banks earn over 20% of their total revenue from construction loans.

-Excluding land loans, nearly 90% of construction loans outstanding as of September 30, 1990, were estimated to mature by June 30, 1991.

Update on Bank Reforms and FDIC Fund. On May 23, the Bush administration's sweeping overhaul of the federal banking laws passed its first legislative hurdle, by passing out of the House Banking, Finance, and Urban Affairs' subcommittee on financial institutions with a 36-0 vote. The legislative proposal would allow full interstate branch banking, give banks broad new powers to sell and underwrite stocks and other securities, and permit the merging of commercial and industrial companies with banking firms. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 116 for background information.) However, the subcommittee rejected the administration's plan to limit insurance to $100,000 for each depositor in each bank, with an additional $100,000 available for retirement accounts. Currently, FDIC covers multiple accounts up to $100,000 in each bank. This proposal will be presented to the Housing Banking Committee in June.

A few weeks earlier, the subcommittee had passed a proposal to increase the Federal Deposit Insurance Corporation's (FDIC) line of credit from $5 billion to $30 billion. Under the proposal, if FDIC is forced to draw on the credit line to cover the losses from a major bank failure, commercial banks would repay the money through higher insurance premiums, but taxpayers would have to provide a bailout if the banking industry is unable to pay the money back. Former Federal Reserve Board Chair Paul A. Volcker, testifying on May 8 before the Senate Banking Committee, questioned the effectiveness of this proposal, stating that commercial banks cannot afford to pay much more than the current insurance premium of $0.23 per $100 of domestic deposits to help rebuild the fund.

The proposal would also require the federal government, by 1994, to stop its controversial practice of protecting uninsured deposits during the collapse of a large bank. Many in Congress argue that this "too big to fail" doctrine is unfair to smaller banks which do not receive such treatment.

National Banking Trends. Across the nation, fees for automated teller machines, saving accounts, and other services are rising as the banking industry passes on increased regulatory fees to its consumers. According to Peg Miller, banking specialist for the Consumer Federation of America, low- and moderate-income customers bear a disproportionate load of the fee hikes. During the first six months of 1991, the contribution which banks must make to the federal bank insurance fund has risen from $0.12 per $100 in deposits to $0.23 per $100 in deposits. This cost is passed by banks on to consumers in the form of higher fees for certain services. Other factors affecting the increase in fees include bad loans for real estate and developing countries and the country's recession.

Appointments. On May 30, Governor Pete Wilson announced that he has asked James Gilleran to remain as SBD Superintendent; Gilleran was originally appointed Superintendent in July 1989 by then-Governor George Deukmejian.

In March, the Federal Financial Institutions Examination Council appointed Gilleran to its State Liaison Committee; the Committee is composed of five representatives of state agencies which supervise state-chartered financial institutions. The Council was established by Congress to promote uniformity among the five federal financial supervisory agencies in the supervision and examination of federally chartered and insured depository institutions; the Committee was established to encourage the application of uniform examination principles and standards by state and federal supervisory agencies.

LEGISLATION:

SJR 24 (Vuich), as introduced May 13, would memorialize the President, Congress, and U.S. Department of the Treasury to retain and continue the essential components of the dual banking system; ensure that any reforms to the federal deposit insurance system apply equally to all depositors in financial institutions of any size; and recognize that it is imperative that any changes in federal banking laws be revenue neutral in California. This resolution is pending in the Senate Banking Committee.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at pages 116-17:

AB 1593 (Floyd), as amended April 18, and *SB 506 (McCorquodale)*, as amended April 8, would both transfer the licensing and regulatory functions of SBD, the Department of Savings and Loan (DSL), and the Department of Corporations to a Department of Financial Institutions, which both bills seek to create; both bills would abolish SBD. AB 1593 is pending in the Assembly Committee on Banking, Finance and Bonded Indebtedness and SB 506 is pending in the Senate Committee on Banking, Commerce and International Trade.

SB 893 (Lockyer), as introduced March 7, would, among other things, authorize the establishment of the California Financial Consumers' Association, a private, nonprofit public benefit corporation established to inform and advise consumers on financial service matters, represent and promote the interests of consumers in financial service matters, intervene as a party or otherwise participate on behalf of financial service consumers in any regulatory proceeding, sue on behalf of members in regard to any financial service matter, and take related actions. This bill is pending in the Senate Banking Committee.

AB 938 (Speier), as amended May 15, would require banks, savings associations, and credit unions to process credits to deposit accounts before processing debits, including fees for dishonored checks; require specified items drawn on an account with insufficient funds to be presented at least twice before the item is returned unpaid, unless otherwise requested by the customer who deposited the item; and limit the fees which financial institutions may charge for dishonored checks. This bill is pending on the Assembly floor.

AB 697 (Lancaster). Existing law requires the Superintendent to collect pro rata from banks and trust companies a fund sufficient to meet Department expenses and contingencies. As amended April 30, this bill would establish a minimum annual assessment of $5,000.

Under existing law, a commercial bank may borrow money for temporary purposes by discounting or otherwise. This bill would eliminate the limitation that the borrowing be for temporary purposes.

Existing law imposes requirements relating to the sale, merger, and conversion of state banks and state savings associations, and provides that if the bank or savings association acquires any asset or liability, or becomes engaged in any activity which was permitted to the selling, disappearing, or converting savings association or bank, but which is prohibited to it, the Superintendent of Banks or the DSL Commissioner may permit a reasonable period of time, not to exceed six months, within which the savings association or bank shall divest itself of the asset, liability, or activity or to conform it to law. As amended April 30, this bill would increase the period of time in which a bank or savings association may accomplish the divestment or conformity to a period not to exceed twelve months. This bill would also allow the Superintendent or Commissioner, on a case-by-case basis, to permit a bank or savings association a reasonable period of time in excess of twelve months upon a specified showing. This bill passed the Assembly on May 29 and is pending in the Senate Banking Committee.

AB 696 (Lancaster). Existing law provides that with the prior written approval of the Superintendent, a bank may change the location of a place of business from one location to another in the same vicinity upon application and a fee of $100. As introduced February 25, this bill would increase that fee to $250. This bill passed the Assembly on May 16 and is pending in the Senate Banking Committee.

SB 949 (Vuich). Existing law provides that the failure of a bank or trust company to open a branch office within one year after the Superintendent approves the application terminates the right to open the office, except that prior to the expiration of the one-year period, a one-year extension may be granted by the Superintendent in which to open and operate a branch office upon filing an application with the Superintendent and the payment of a $100 fee. As introduced March 8, this bill would increase that fee to $300. This bill is pending in the Senate Banking Committee.

AB 1596 (Floyd). The California Public Records Act requires that records of state and local agencies be open to public inspection, with specified exceptions, including specified documents filed with state agencies responsible for the regulation or supervision of the issuance of securities or of financial institutions. As amended April 30, this bill would revise this exception and limit it to records of any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, when the records are received in confidence and are proprietary and their release would result in an unfair competitive disadvantage to the person supplying the information or the records constitute filings or reports whose disclosure would be counterproductive to the regulatory purpose for which they are used. This bill is pending in the Assembly Governmental Organization Committee.

SB 950 (Vuich) and *AB 1463 (Hayden)*. Existing law, with specified exceptions, prohibits a commercial bank from lending in the aggregate an amount in excess of 70% of the amount of its savings and other time deposits upon the security of real property. SB 950, as introduced March 8, and AB 1463, as introduced March 7, would specify that the percentage limitation applies with respect to the aggregate amount of accounts subject to a negotiable order of withdrawal, savings deposits, money market accounts, super now accounts, and other time deposits of a commercial bank, including certificates of deposit. SB 950 is pending in the Senate Banking Committee and AB 1463 is pending in the Assembly Banking Committee.

AB 1195 (Lancaster), as introduced March 6, would provide that for compensation or in expectation of compensation, a bank or trust company may, on behalf of another or others, sell, buy, lease, exchange, or offer to sell, buy, lease, or exchange, or solicit prospective sellers, purchasers, or lessees of, or negotiate the sale, purchase, lease, or exchange of any business opportunity. This bill is pending in the Assembly Banking Committee.

LITIGATION:

In *U.S. v. Gaubert*, No. 89-1793 (March 26, 1991), the U.S. Supreme Court determined that the "discretionary function" exception in the Federal Tort Claims Act (FTCA) immunizes federal regulators from civil liability in their day-to-day management of a failed savings and loan association. Independent American Savings Association (IASA) was a Texas-chartered and federally insured savings and loan association. Thomas Gaubert, IASA chair and principal shareholder, was persuaded to relinquish management of IASA to the Federal Home Loan Bank Board and the Federal Home Loan Bank of Dallas (FHLB-D); Gaubert also posted a $25 million personal guarantee as to IASA's solvency.

FHLB-D officials became actively involved in the day-to-day operations of IASA, which was subsequently reported to be insolvent; Gaubert then filed suit against the federal government under the FTCA for negligence.

The trial court granted the federal government's motion to dismiss on grounds that the regulators' actions fell within the discretionary function exception to government liability. The Fifth Circuit Court of Appeals partially reversed the dismissal, ruling that certain "operational actions" of the defendants did not fall within the exception.

The U.S. Supreme Court reversed, holding that under 28 U.S.C. section 2680(a) of the Act, the federal government is not liable for "(a)ny claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation...or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government...." According to the Court, this exception protects a government employee's actions and decisions as long as they are based on public policy considerations. The Court also found that the discretionary function exception extends to the daily management of banking affairs and not just to policy and planning decisions. Therefore, the actions of the federal regulators pursuant to their statutory authority to supervise financial institutions involved the policy judgment protected by section 2680(a).

In *Los Angeles National Bank v. Bank of Canton of California*, No. B042986 (May 3, 1991), the Second District Court of Appeal held that, irrespective of the negligence of others, a bank which fails to dishonor a check within a fixed statutory deadline will be held accountable for the full amount. During a three-day period in January 1986, two businessmen deposited 28 checks totalling $2,257,965 into their company account at the Los Angeles National Bank in Monterey Park (LANB), drawn on the company account at the Bank of Canton. Without verifying that the checking account balance covered the checks, the LANB cashier allowed the men to withdraw half of the "deposits" in cash and the balance in cashiers' checks. By the time this scheme was discovered, the two men had disappeared.

In its suit to recover the payments, LANB argued that Canton was strictly liable for its failure to dishonor the checks by the "midnight deadline" imposed by Commercial Code section 4101 *et seq.*, which allows a payor bank to revoke a provisional settlement and recover any payment made to the intermediary bank before midnight on the day following the banking day on which it receives the check, by either returning the check or sending written notice that the check will not be honored. The Second District held that if the payor bank fails to return a check before the midnight deadline, it is deemed to have paid it. Further, the court held that the strict liability provision of Commercial Code section 4302 applies whether or not the intermediary bank was actually damaged by the payor bank's omission and whether or not the intermediary bank's own negligence caused the loss. Finally, the court held that an oral notice of dishonor made by the Bank of Canton within the statutory deadline did not satisfy the written notice requirement in section 4302.

In *Copesky v. Superior Court; San Diego National Bank, Real Party in Interest*, No. D013448 (Apr. 23, 1991), the Fourth District Court of Appeal, contrary to its prior decision in *Commercial Cotton Co. v. United California Bank*, 163 Cal. App. 3d 511 (1985), held that a special relationship between a bank and its depositor does not support a tort action for breach of contract. In this proceeding, Paul Copesky maintained a commercial checking account at San Diego National Bank. Over an eighteen-month period, Copesky's bookkeeper improperly withdrew $32,913 from the account by using Copesky's stamped signature. Copesky subsequently demanded that the bank restore the embezzled funds. When it refused, Copesky sued it for negligence, breach of contract, and breach of the implied covenant of good faith and fair dealing. The bank demurred to the claim of the implied covenant breach, arguing that there is no special relationship in a bank-depositor contractual status; the trial court sustained the demurrer without leave to amend.

In denying Copesky's writ, the Fourth District acknowledged that *Commercial Cotton* recognized that the bank-depositor relationship is "at least quasi-fiduciary" and sufficient to support the existence of an implied covenant of good faith and fair dealing. However, the Fourth District notes that the subsequent decision in *Foley v. Interactive Data Corp.*, 47 Cal. 3d 654 (1988), held that the only category of business transactions which definitely is amenable to tort actions for contract breaches is insurance. As a result, the court held that this aspect of *Commercial Cotton* is no longer viable, and that the bank-depositor relationship does not support a claim for tort damages arising from a breach of an implied covenant of good faith.

In *Kruser v. Bank of America NT&SA*, No. F012981 (May 24, 1991), Lawrence and Georgene Kruser claimed that Bank of America was liable for damages resulting from unauthorized electronic withdrawals from their account by someone using Mr. Kruser's "Versatel" card. The Krusers believed that this card had been destroyed in September 1986. However, the December 1986 account statement mailed to the Krusers reflected a $20 unauthorized withdrawal of funds by someone using the card at an automatic teller machine (ATM). The Krusers did not report this unauthorized transaction to the bank until August or September of 1987, when they discovered it. Also in September 1987, the Krusers received bank statements for July and August, showing 47 unauthorized withdrawals totaling $9,020, again by someone using the card at an ATM. The Krusers notified the bank of these withdrawals within a few days of receiving the statements; the Bank refused to credit the Krusers' account with the amount of the unauthorized withdrawals.

The Fifth District Court of Appeal determined that the ultimate issue is whether, as a matter of law, the failure to report the unauthorized $20 withdrawal which appeared on the December 1986 statement barred the Krusers from recovery for the subsequent withdrawals. The court referred to section 1693g of the Electronic Fund Transfer Act (EFTA) (15 U.S.C. sections 1693-1693r), which states that "reimbursement need not be made to the consumer for losses the financial institution establishes would not have occurred but for the failure of the consumer to report within sixty days of transmittal of the statement...any unauthorized electronic fund transfer or account error which appears on the periodic statement provided to the consumer under section 1693d of [EFTA]." Further, section 205.6 of Regulation E (12 C.F.R. section 205.6), one of the federal regulations which implements the EFTA, provides that if a consumer fails to report within sixty days any unauthorized electronic fund transfer that appears on his/her statement, the consumer will be liable for the amount of the unauthorized electronic fund transfers which occur after the close of the sixty days and before notice to the financial institution, if the financial institution establishes that such transfers would not have occurred but for the failure of the consumer to notify the financial institution within that time.

The court concluded that, if the bank had received proper notification regarding the December 1986 unauthorized withdrawal, it could have and would have cancelled the card; thus, the card could not have been used to accomplish the transactions in July and August. As a result, the court held that the bank was entitled to judgment as a matter of law.

On May 23, the California Supreme Court denied Union Bank's petition for review in *Union Bank v. Ernst & Whinney*, No. S020408, in which the Second District Court of Appeal held that Ernst & Young is not liable to Union Bank for a $7 million loan default resulting from the ZZZZ Best stock swindle. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 53-54 for background information.) However, the Supreme Court also depublished the court of appeal's decision, which held that the claims against the accounting firm were barred by the statute of frauds, which requires that representations regarding the creditworthiness of a third party be in writing and signed by the attestor.

DEPARTMENT OF CORPORATIONS

Commissioner: Thomas Sayles
(916) 445-7205
(213) 736-2741

The Department of Corporations (DOC) is a part of the cabinet-level Business, Transportation and Housing Agency and is empowered under section 25600 of the California Code of Corporations. The Commissioner of Corporations, appointed by the Governor, oversees and administers the duties and responsibilities of the Department. The rules promulgated by the Department are set forth in Chapter 3, Title 10 of the California Code of Regulations (CCR).

The Department administers several major statutes. The most important is the Corporate Securities Act of 1968, which requires the "qualification" of all securities sold in California. "Securities" are defined quite broadly, and may include business opportunities in addition to the traditional stocks and bonds. Many securities may be "qualified" through compliance with the Federal Securities Acts of 1933, 1934, and 1940. If the securities are not under federal qualification, the commissioner must issue a "permit" for their sale in California.

The commissioner may issue a "stop order" regarding sales or revoke or suspend permits if in the "public interest" or if the plan of business underlying the securities is not "fair, just or equitable."

The commissioner may refuse to grant a permit unless the securities are properly and publicly offered under the federal securities statutes. A suspension or stop order gives rise to Administrative Procedure Act notice and hearing rights. The commissioner may require that records be kept by all securities issuers, may inspect those records, and may require that a prospectus or proxy statement be given to each potential buyer unless the seller is proceeding under federal law.

The commissioner also licenses agents, broker-dealers, and investment advisors. Those brokers and advisors without a place of business in the state and operating under federal law are exempt. Deception, fraud, or violation of any regulation of the commissioner is cause for license suspension of up to one year or revocation.

The commissioner also has the authority to suspend trading in any securities by summary proceeding and to require securities distributors or underwriters to file all advertising for sale of securities with the Department before publication. The commissioner has particularly broad civil investigative discovery powers; he/she can compel the deposition of witnesses and require production of documents. Witnesses so compelled may be granted automatic immunity from criminal prosecution.

The commissioner can also issue "desist and refrain" orders to halt unlicensed activity or the improper sale of securities. A willful violation of the securities law is a felony, as is securities fraud. These criminal violations are referred by the Department to local district attorneys for prosecution.

The commissioner also enforces a group of more specific statutes involving similar kinds of powers: Franchise Investment Statute, Credit Union Statute, Industrial Loan Law, Personal Property Brokers Law, Health Care Service Plan Law, Escrow Law, Check Sellers and Cashiers Law, Securities Depositor Law, California Finance Lenders Law, and Security Owners Protection Law.

A Consumer Lenders Advising Committee advises the commissioner on policy matters affecting regulation of consumer lending companies licensed by the Department of Corporations. The committee is composed of leading executives, attorneys, and accountants in consumer finance.

MAJOR PROJECTS:

New Commissioner Appointed. Governor Wilson recently announced the appointment of Thomas Sayles of Los Angeles as the new DOC Commissioner. Prior to his appointment, Sayles was general counsel for TRW Space and Technology Group. Before joining TRW in 1982, Sayles was an Assistant U.S. Attorney in the Civil Division of the Los Angeles U.S. Attorney's Office, and a Deputy Attorney General with the California Attorney General's Office. Sayles graduated Phi Beta Kappa from Stanford in 1972, and received his law degree from Harvard Law School in 1975.

All California Thrift and Loans Now Insured by FDIC. California's $5.2 billion thrift and loan industry, regulated by DOC pursuant to Financial Code section 18000 *et seq.*, has completed its transformation from a privately insured system to one in which depositors have federal coverage. On April 4, Tom Cunningam, president of the Thrift Guaranty Corporation (TGC), the industry's privately funded insurance program, said that all 50 of the state's thrift and loan companies are now covered by the Federal Deposit Insurance Corporation (FDIC) for up to $100,000 per account.

As of 1985, 28 of California's 58 thrift and loans were members of TGC, which had only $4.6 million in assets to cover $476 million in deposits. That year, Senator Dan Boatwright and Assemblymember Bill Baker introduced a successful bill which required all California thrift and loans to obtain FDIC coverage by July 1990 or shut down. (See CRLR Vol. 5, No. 4 (Fall 1985) p. 51 and Vol. 5, No. 3 (Summer 1985) pp. 67-68 for background information.) Only two institutions did not meet the deadline. Riverside Thrift and Loan was seized last April by the state and the other, American Thrift and Loan Association of San Diego, was seized last August. TGC will go out of business after the conclusion of litigation involving the two thrifts.

Proposed Regulatory Action Under the Escrow Law. On April 12, DOC held a public hearing on its proposed addition of section 1727 to the Department's regulations, to implement section 17202 of the Financial Code. That statute permits an escrow agency applicant or licensee to obtain, in lieu of a surety bond, an irrevocable letter of credit approved by the Commissioner. New section 1727 would require that the letter be a personal obligation of the owner(s) of the escrow company; there be a board of directors' resolution authorizing the person(s) to obtain the letter of credit for the escrow company; the letter of credit be issued by a California branch of a national bank or a California-chartered bank; the beneficiary be the Department of Corporations and any person(s) who may have a cause of action against the escrow company under the Escrow Law; payment be made to the Department upon presentment of a written demand; payment be made to other persons, after obtaining written consent from the